



Proposed Modifications to the Local Rules for the Northern District of New York.

The Northern District of New York is seeking comment from the Bar and public regarding amendments to its Local Rules of practice. Should you wish to propose a modification to the Local Rules, please send your comments/proposals to:

John Domurad
Chief Deputy Clerk
James T. Foley Courthouse
Albany, NY 12207

If you prefer, you may e-mail your proposals/comments to Jdomurad@nynd.uscourts.gov. All comments must be received by close of business on Friday, August 25th, 2000. All timely received comments/proposals will be reviewed by the Local Rules Committee and the Board of Judges. Any amendments to the Local Rules, as adopted by the Board of Judges, will become effective January 1st, 2001.

The following modifications to the Local Rules have already been proposed.

Local Rule 7.1(b)(3)

Current Rule:

3. Failure To Timely File or Comply.

Any papers required under this Rule that are not timely filed or are otherwise not in compliance with this Rule shall not be considered unless good cause is shown. Failure to file or serve any papers as required by this Rule shall be deemed by the court as consent to the granting or denial of the motion, as the case may be, unless good cause is shown.

Any party who does not intend to oppose a motion, or a movant who does not intend to pursue a motion, shall promptly notify the court and the other parties of such intention. Notice should be provided at the earliest practicable date, but in any event no less than **SEVEN CALENDAR DAYS** prior to the scheduled return date of the motion, unless for good cause shown. **Failure to comply with this Rule may result in the imposition of sanctions by the court.**

Proposed Rule:

3. Failure To Timely File or Comply.

Any papers required under this Rule that are not timely filed or are otherwise not in compliance with this Rule shall not be considered unless good cause is shown. Where a properly filed motion is unopposed and the Court determines that the moving party has met its burden demonstrating entitlement to the relief requested, failure by the non-moving party to file or serve any papers as required by this Rule shall be deemed by the court as consent to the granting of the motion, unless good cause is shown.

Any party who does not intend to oppose a motion, or a movant who does not intend to pursue a motion, shall promptly notify the court and the other parties of such intention. Notice should be provided at the earliest practicable date, but in any event no less than **SEVEN CALENDAR DAYS** prior to the scheduled return date of the motion, unless for good cause shown. Failure to comply with this Rule may result in the imposition of sanctions by the court.

Local Rule 7.1(d)(8)

Current Rule:

(d) Discovery Motions.

The following steps are required prior to making any discovery motion pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure.....

(8) Motions to compel discovery may be filed no later than THIRTY CALENDAR DAYS after the discovery cut-off date. See L.R. 16.2.

Proposed Rule:

(d) Discovery Motions.

The following steps are required prior to making any discovery motion pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure.....

(8) Motions to compel discovery may be filed no later than TEN CALENDAR DAYS after the discovery cut-off date. See L.R. 16.2.

Local Rule 72.4

Current Rule:

Local Rule 72.4 Habeas Corpus

Currently, the Local Rules provide no guidance on the proper form the state court record shall be in when submitted to the Court.

Proposed Rule:

Local Rule 72.4 Habeas Corpus

(d) If state court records are to be submitted with respondent's answer to the petition, the records must be properly identified in the answer and arranged in chronological order. The pages of the state court records must be sequentially numbered so that citations to those records will identify the exact location where the information appears. If trial transcripts are separately bound and the citation to the transcript is easily identifiable by a citation to (T.), the transcripts need not be re-paginated.

Local Rule 83.1

Current Rule:

Local Rule 83.1 Admission to the Bar

Currently, Local Rule 83.3(a)(1) states in pertinent part:

1. “... Any other attorney admitted to practice in this court shall also be expected to participate in periodic training as offered by the court and to accept no more than one pro bono assignment per year.”

It has been proposed that this language be modified and be moved to it’s own subparagraph under 83.1(f)

Proposed Rule:

Local Rule 83.1(f)

(f) Every member of the bar of this Court shall be available upon the Court’s request for appointment to represent or assist in the representation of indigent parties. Appointment under this rule shall be made in a manner such that no attorney shall be requested to accept more than one appointment during any twelve month period.

Local Rule 83.4

Current Rule:

Local Rule 83.4(j) Discipline of Attorneys.

- (j) The Code of Professional Responsibility of the American Bar Association shall be enforced in this court.

Proposed Rule:

Local Rule 83.4(j) Discipline of Attorneys.

- (j) The NYS Lawyer's Code of Professional Responsibility as adopted from time to time by the Appellate Divisions of the State of New York, and as interpreted and applied by the United States Court of Appeals for the Second Circuit shall be enforced by this court..

Local Rules of Criminal Procedure

Current Rule:

12.1 Motions and Other Papers.

(a) All criminal motions shall be filed, served and heard as provided for in L.R. 7.1(b)(2) of the Local Rules of Civil Procedure. In addition, no party shall file or serve a memorandum of law which exceeds twenty-five (25) pages in length, unless leave of court is obtained prior to filing. All memoranda of law shall contain a table of contents and, wherever possible, parallel citations.

(b) No discovery motion shall be heard unless the attorney for the moving party files with the court, simultaneously with the filing of the moving papers, an affidavit certifying that the moving party has conferred and discussed in detail with the opposing party the issues between them in a good faith effort to eliminate or reduce the area of controversy and to arrive at a mutually satisfactory resolution.

Proposed Rule:

(a) All motion papers must be filed with the court and served upon the other parties not less than TWENTY-EIGHT CALENDAR DAYS prior to the return date of the motion. The Notice of Motion should state the return date which has been selected by the moving party. Opposing papers must be filed with the court and served upon the other parties not less than FOURTEEN CALENDAR DAYS prior to the return date of the motion. Reply papers may be filed only with leave of the court, upon a showing of necessity. If leave is granted, reply papers must be filed with the court and served upon the other parties not less than SEVEN CALENDAR DAYS prior to the return date of the motion.

The parties shall not file, or otherwise provide to the assigned judge, a courtesy copy of the motion papers unless specifically requested to do so by that judge.

In addition, no party shall file or serve a memorandum of law which exceeds twenty-five (25) pages in length, unless leave of court is obtained prior to filing. All memoranda of law exceeding five (5) pages shall contain a table of contents and, wherever possible, parallel citations. A separate memorandum of law is unnecessary when case law may be concisely cited (i.e. several paragraphs) in the body of the motion.

(b) No ~~discovery~~ motion to compel discovery shall be heard unless the attorney for the moving party files with the court, simultaneously with the filing of the moving papers, ~~an affidavit certifying~~ a notice stating that the moving party has conferred and discussed in detail with the opposing party the issues between them in a good faith effort to eliminate or reduce the area of controversy and to arrive at a mutually satisfactory resolution.

(e) An affidavit of counsel is not required when filing motions in criminal cases. A certificate of service is required at the conclusion of the motion.